# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/851,029 | 05/07/2001 | Frank Addante | 45163/JEJ/L380 | 2494 |

23838        7590        10/18/2007
KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

| EXAMINER |
|---|
| NGUYEN, TRI V |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1796 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/18/2007 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

# BEFORE THE BOARD OF PATENT APPEALS
# AND INTERFERENCES

Application Number: 09/851,029
Filing Date: May 07, 2001
Appellant(s): ADDANTE, FRANK

**MAILED**

**OCT 1 8 2007**

**GROUP 1700**

---

Aaron S. Kamlay
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed on July 2nd 2007 appealing from the Office action mailed on May 30th 2006.

## (1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

## (2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

## (3) Status of Claims

The statement of the status of claims contained in the brief is correct.

## (4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

## (5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

## (6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.


**(8) Evidence Relied Upon**

| | | |
|---|---|---|
| 5933811 | Angles et al. | 08-1999 |
| 5796952 | Davis et al. | 08-1998 |
| WO98/57285 | Messer | 12-1998 |


**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-12, 14, 16, 18-30, 33-52, 55-62, 64-78, 80-83 and 85-87 rejected under 35

U.S.C. 102(b) as being anticipated by Messer.

Regarding claim 1, Messer discloses a computer network comprising:

a) a user node to provide a request to perform a transaction and a request to record the transaction (page 3, lines 10-27; page 6, line 21 to page 8 line 14 and Figs 1 and 7);

b) a transaction node to receive the request to perform the transaction, to perform the transaction in response, and to provide a transaction confirmation to the user node, the transaction confirmation including a command to record the transaction (page 3, lines 10-27; page 6, line 21 to page 8 line 14 and Figs 1 and 7); and

c) a monitor node to receive the request to record the transaction provided by the user node in response to the command to record the transaction, and to record the transaction in response to the request to record the transaction (page 3, lines 10-27; page 6, line 21 to page 8 line 14 and Figs 1 and 7).


Regarding claim 2, Messer discloses the computer network of claim 1 wherein the user node includes a web client, the web client being used to provide the request to perform the transaction and the request to record the transaction (page 6, line 21 to page 8 line

14).

Regarding claim 3, Messer discloses the computer network of claim 2 wherein the web client is a web browser (page 6, line 21 to page 8 line 14).

Regarding claim 4, Messer discloses the network of claim 1 wherein the transaction includes an inquiry (page 6, line 21 to page 8 line 14 and page 13, line 24 to page 14, line 8).

Regarding claim 5, Messer discloses the computer network of claim 1 wherein the monitor node includes a sale log program, the sale log program being used to record the transaction between the user node and the transaction node (page 13, line 24 to page 14, line 20 and Fig. 6a).

Regarding claim 6, Messer discloses the computer network of claim 5 wherein the sale log program includes a CGI script (page 13, lines 7-16).

Regarding claim 7, Messer discloses the computer network of claim 1 wherein the transaction confirmation is a confirmation web page (page 13, line 24 to page 14, line 20).

Regarding claim 8, Messer discloses the computer network of claim 7 wherein the command to record the transaction is an HTML tag included in the confirmation web page (page 13, lines 7-16 and page 13, line 24 to page 14, line 20).

Regarding claim 9, Messer discloses the computer network of claim 1 further comprising a content node providing a content to the user node, wherein the content has a space for an advertisement, and wherein the user node receives the content and the advertisement (page 8, line 26 to page 9, line 7).

Regarding claim 10, Messer discloses the computer network of claim 9 wherein the

advertisement includes a graphics file (page 8, line 26 to page 9, line 7 and page 10, lines 14-29).

Regarding claim 11, Messer discloses the computer network of claim 10 wherein the graphics file includes an ad banner (page 8, line 26 to page 9, line 7 and page 10, lines 14-29).

Regarding claim 12, Messer discloses the computer network of claim 9 wherein the advertisement includes a multimedia file (page 3, lines 10-27; page 8, line 26 to page 9, line 7 and page 10, lines 14-29).

Regarding claim 14, Messer discloses the computer network of claim 9 wherein the content node includes the advertisement, and wherein the content node provides the advertisement to the user node (page 6, line 21 to page 8, line 14).

Regarding claim 16, Messer discloses the computer network of claim 9 further comprising an advertisement database, wherein the advertisement database provides the advertisement to the content node, and wherein the content node provides the advertisement to the user node (page 13, lines 1-5).

Regarding claim 18, Messer discloses the computer network of claim 9 wherein the transaction node is associated with the advertisement, and the user node provides to the monitor node a request for redirection to the transaction node (page 13, line 24 to page 14, line 20).

Regarding claim 19, Messer discloses the computer network of claim 18 wherein the request for redirection is provided when a user at the user node makes a selection of the advertisement (page 3, lines 10-27 and page 13, line 24 to page 14, line 20).

Regarding claim 20, Messer discloses the computer network of claim 19 wherein the user makes the selection by clicking on the advertisement (page 3, lines 10-27 and page 13, line 24 to page 14, line 20).

Regarding claim 21, Messer discloses the computer network of claim 18 wherein the request for redirection includes a URL (page 13, lines 7-16).

Regarding claim 22, Messer discloses the computer network of claim 18 wherein the request for redirection includes an IP address (page 13, lines 7-16).

Regarding claim 23, Messer discloses the computer network of claim 19 wherein the monitor node monitors the selection made by the user (page 4, lines 13-31; page 13, line 24 to page 14, line 20 and page 15, lines 1-5).

Regarding claim 24, Messer discloses the computer network of claim 20 wherein the monitor node includes a sale track program, and the monitor node uses the sale track program to monitor the selection made by the user (page 4, lines 13-31; page 5, lines 19-23 and page 15, lines 1-5).

Regarding claim 25, Messer discloses the computer network of claim 24 wherein the sale track program includes a CGI script (page 13, lines 7-16).

Regarding claim 26, Messer discloses the computer network of claim 19 wherein the monitor node compiles information related to the selection made by the user (page 13, line 14 to page 14, line 8).

Regarding claim 27, Messer discloses the computer network of claim 26 wherein the information related to the selection made by the user is compiled into a block of data (page 8, lines 3-14 and page 13, line 24 to page 14, line 20).

Regarding claim 28, Messer discloses the computer network of claim 27 wherein the block of data includes a cookie (page 8, lines 3-14 and page 13, line 24 to page 14, line 20).

Regarding claim 29, Messer discloses the computer network of claim 28 wherein the

cookie includes information related to the content node (page 8, lines 3-14).

Regarding claim 30, Messer discloses the computer network of claim 28 wherein the cookie includes information related to the advertisement (page 8, lines 3-14).

Regarding claim 33, Messer discloses the computer network of claim 28 wherein the cookie includes information related to a campaign during which the advertisement is provided (page 14, line 21 to page 15, line 5).

Regarding claim 34, Messer discloses the computer network of claim 28 wherein the monitor node provides the cookie to the user node to be stored (page 8, lines 3-14).

Regarding claim 35, Messer discloses the computer network of claim 34 wherein the cookie is stored at a hard drive of the user node (page 5, lines 23-32 and page 8, lines 3-14).

Regarding claim 36, Messer discloses the computer network of claim 18 wherein the monitor node redirects the user node to the transaction node by providing a URL of the transaction node (page 8, lines 3-14).

Regarding claim 37, Messer discloses the computer network of claim 18 wherein the monitor node redirects the user node to the transaction node by providing an IP address of the transaction node (page 8, lines 3-14).

Regarding claim 38, Messer discloses the computer network of claim 18 wherein the user node provides a request to the transaction node to receive a transaction site page upon redirection by the monitor node (page 8, lines 3-14 and page 13, line 24 to page 14, line 8).

Regarding claim 39, Messer discloses the computer network of claim 38 wherein the transaction node provides the transaction site page to the user node in response to the

request to receive the transaction site page (page 6, line 12 to page 8, line 14 and page 13, line 14 to page 14, line 8).

Regarding claim 40, Messer discloses the computer network of claim 27 wherein the user node provides a request for a GIF file from the monitor node (page 13, lines 7-16).

Regarding claim 41, Messer discloses the computer network of claim 40 wherein the GIF file is an invisible GIF file, which has 1.times.1 dimension (page 13, lines 7-16).

Regarding claim 42, Messer discloses the computer network of claim 27 wherein the user node provides a query string to the monitor node (page 8, lines 3-14 and page 13, line 24 to page 14, line 8).

Regarding claim 43, Messer discloses the computer network of claim 42 wherein the query string includes information related to the transaction node (page 4, line 28 to page 5, line 7; page 13, line 24 to page 14, line 8 and page 14, line 9 to page 15, line 5).

Regarding claim 44, Messer discloses the computer network of claim 42 wherein the query string includes information related to a transaction type (page 4, line 28 to page 5, line 7; page 13, line 24 to page 14, line 8 and page 14, line 9 to page 15, line 5).

Regarding claim 45, Messer discloses the computer network of claim 42 wherein the query string includes information related to a transaction amount (page 4, line 28 to page 5, line 7; page 8, lines 3-14; page 13, line 24 to page 14, line 8 and page 14, line 9 to page 15, line 5).

Regarding claim 46, Messer discloses the computer network of claim 42 wherein the query string includes information related to a transacted product (page 4, line 28 to page 5, line 7; page 8, lines 3-14; page 13, line 24 to page 14, line 8 and page 14, line 9 to page 15, line 5).

Regarding claim 47, Messer discloses the computer network of claim 42 wherein the

user node provides the block of data to the monitor node (page 13, line 24 to page 15, line 16).

Regarding claim 48, Messer discloses the computer network of claim 47 wherein the monitor node records the transaction by extracting information from the block of data and the query string (page 13, line 24 to page 15, line 16).

Regarding claim 49, Messer discloses the computer network of claim 48 wherein the monitor node records the transaction into a transaction database (page 15, lines 12-23).

Regarding claim 50, Messer discloses the computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to a current time (page 13, line 24 to page 15, line 16).

Regarding claim 51, Messer discloses the computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to the content node (page 13, line 24 to page 15, line 16).

Regarding claim 52, Messer discloses the computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to the advertisement (page 8, lines 3-14 and page 13, line 24 to page 15, line 16).

Regarding claim 55, Messer discloses the computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to the transaction node (page 8, lines 3-14 and page 13, line 24 to page 15, line 16).

Regarding claim 56, Messer discloses the computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to a transaction type (page 8, lines 3-14 and page 13, line 24 to page 15, line 16).

Regarding claim 57, Messer discloses the computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to a

transaction amount (page 8, lines 3-14 and page 13, line 24 to page 15, line 16).

Regarding claim 58, Messer discloses the computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to a transacted product (page 8, lines 3-14 and page 13, line 24 to page 15, line 16).

Regarding claim 59, Messer discloses the computer network of claim 49 wherein the monitor node provides the recorded transaction to the transaction node (page 15, lines 12-23).

Regarding claim 60, Messer discloses a method of tracking transactions over a computer network comprising:

a) providing a request to perform a transaction from a user node to a transaction node; performing the transaction at the transaction node (page 4, lines 13-31; page 6, line 21 to page 8, line 14 and page 13, line 24 to page 14, line 20);

b) providing a transaction confirmation, including a command to record the transaction, from the transaction node to the user node  (page 4, lines 13-31; page 6, line 21 to page 8, line 14 and page 13, line 24 to page 14, line 20);

c) providing a request to record the transaction in response to the command to record the transaction, from the user node to a monitor node  (page 4, lines 13-31; page 6, line 21 to page 8, line 14 and page 13, line 24 to page 14, line 20); and

d) recording the transaction at the monitor node  (page 4, lines 13-31; page 6, line 21 to page 8, line 14 and page 13, line 24 to page 14, line 20).

Regarding claim 61, Messer discloses the method of tracking transactions of claim 60 further comprising: providing content having a space for an advertisement from a content node to the user node; and providing the advertisement to the user node (page 8, line 26 to page 9, line 7 and page 10, lines 14-29).

Regarding claim 62, Messer discloses the method of tracking a transaction of claim 61 further comprising: providing the advertisement to the user node from the content node (page 7, lines 6-15 and page 8, line 16 to page 9, line 7).

Regarding claim 64, Messer discloses the method of tracking a transaction of claim 61 further comprising: making a selection of the advertisement at the user node (page 3, lines 10-27 and page 7, lines 6-15).

Regarding claim 65, Messer discloses the method of tracking a transaction of claim 64 wherein making the selection of the advertisement includes clicking on the advertisement by a user at the user node (page 3, lines 10-27 and page 13, line 24 to page 14, line 20).

Regarding claim 66, Messer discloses the method of tracking a transaction of claim 64 further comprising: requesting a redirection from the user node to the monitor node (page 13, line 24 to page 14, line 20).

Regarding claim 67, Messer discloses the method of tracking a transaction of claim 64 further comprising: compiling information related to the selection of the advertisement at the monitor node (page 13, line 24 to page 14, line 20).

Regarding claim 68, Messer discloses the method of tracking a transaction of claim 67 wherein compiling information related to the selection includes formatting a cookie using the information related to the selection (page 8, lines 3-14 and page 13, line 24 to page 14, line 20).

Regarding claim 69, Messer discloses the method of tracking a transaction of claim 68 wherein formatting a cookie includes recording a cookie setting date to indicate a date on which the cookie is formatted (page 14, line 21 to page 15, line 5).

Regarding claim 70, Messer discloses the method of tracking a transaction of claim 68 wherein formatting a cookie includes recording a cookie setting time to indicate a time at which the cookie is formatted (page 14, line 21 to page 15, line 5).

Regarding claim 71, Messer discloses the method of tracking a transaction of claim 68

wherein formatting a cookie includes recording information related to the content node (page 8, lines 3-14).

Regarding claim 72, Messer discloses the method of tracking a transaction of claim 68 wherein formatting a cookie includes recording information related to the advertisement (page 8, lines 3-14).

Regarding claim 73, Messer discloses the method of tracking a transaction of claim 68 further comprising: providing the cookie from the monitor node to the user node (page 13, line 24 to page 14, line 20).

Regarding claim 74, Messer discloses the method of tracking a transaction of claim 66 further comprising: redirecting the user node to the transaction site (page 8, lines 3-14).

Regarding claim 75, Messer discloses the method of tracking a transaction of claim 73 further comprising: sending the cookie from the user node to the monitor node (page 8, lines 3-14 and page 14, line 21 to page 15, line 5).

Regarding claim 76, Messer discloses the method of tracking a transaction of claim 73 further comprising: sending a query string from the user node to the monitor node (page 8, lines 3-14 and page 13, line 24 to page 14, line 20).

Regarding claim 77, Messer discloses the method of tracking a transaction of claim 60 further comprising: reporting the recorded transaction to the transaction node (page 15, lines 12-22).

Regarding claim 78, Messer discloses a method of compiling transaction information comprising:

a) formatting a cookie at an ad server, the cookie including information related to a selection of an advertisement at a content site (page 13, line 24 to page 14, line 8);

b) storing a cookie at a user node of a user who made the selection (page 13, line 24 to page 14, line 8); and

c) providing the cookie from the user node to the ad server whenever the user makes a transaction at a sale site associated with the advertisement (page 13, line 24 to page 14, line 8).

Regarding claim 80, Messer discloses the method of compiling transaction information of claim 78 further comprising providing a query string from the user node to the ad server, wherein the query string includes information related to the transaction made at the sale site (page 13, line 24 to page 15, line 16).

Regarding claim 81, Messer discloses the method of compiling transaction information of claim 80 wherein the information related to the transaction includes an identification of a purchased product (page 13, line 24 to page 15, line 16).

Regarding claim 82, Messer discloses the method of compiling transaction information of claim 81 wherein the information related to the transaction includes a purchase price of the purchased product (page 13, line 24 to page 15, line 16).

Regarding claim 83, Messer discloses the method of compiling transaction information of claim 80 further comprising recording at least a portion of the information related to the selection of the advertisement and at least a portion of the information related to the transaction into a data structure for the transaction information in the transaction database (page 13, line 24 to page 15, line 16).

Regarding claim 85, Messer discloses the method of compiling transaction information of claim 83 wherein the data structure for the transaction information includes information related to the content site, and the method further includes crediting the content site with the transaction (page 13, line 24 to page 15, line 16).

Regarding claim 86, Messer discloses the method of compiling transaction information of claim 83 wherein the data structure for the transaction information includes information related to the advertisement, and the method further includes assessing effectiveness of

the advertisement by counting a number of transactions related to the advertisement (page 13, line 24 to page 15, line 16).

Regarding claim 87, Messer discloses the method of compiling transaction information of claim 83 wherein the data structure for the transaction information includes information related to a campaign during which the advertisement is provided, and the method further includes assessing effectiveness of the campaign by counting a number of transactions related to the campaign (page 13, line 24 to page 15, line 16).

Claims 13, 15, 17, 31, 32, 53, 54, 63, 79 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Messer in view of Angles et al.

Regarding claim 13, Messer discloses the computer network of claim 12 but does not explicitly teach that wherein the multimedia file includes a java script. In an analogous art, Angles et al. discloses the use of java script (col 23, lines 16-27). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the computer network of Messer to include a java script. One would have been motivated to use java script since java programming language is a robust, secure, architecture-neutral, portable, general-purpose programming language.

Regarding claim 15, Messer discloses the computer network of claim 9 but does not explicitly disclose the computer network further comprising an advertisement database, wherein the advertisement database provides the advertisement to the user node. In an analogous art, Angles et al. discloses several architectural designs of the computer network to provide ads from a database server to a consumer browser module (col 15, lines 20-31 and Figs 1, 2, 4, 9, 10, 11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the computer network of Messer to include the delivery of ads from the ad database to the user node. One would have been motivated to modify the computer network to gain greater architectural flexibility in designing a more efficient and cost effective network tailored for the transaction site, content site and ad server system present.

Regarding claim 17, Messer discloses the computer network of claim 15 but does not explicitly disclose that wherein the user node provides a first request for the advertisement to the monitor node, the monitor node provides a second request for the advertisement to the advertisement database in response to the first request, the advertisement database provides the advertisement to the monitor node, and the monitor node provides the advertisement to the user node. In an analogous art, Angles et al. discloses several architectural designs of the computer network to provide ads from a database server to a consumer browser module (col 15, lines 20-31 and Figs 1, 2, 4, 9, 10, 11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the computer network of Messer to include the delivery of ads from the ad database to the user node via the monitor node. One would have been motivated to modify the computer network to gain greater architectural flexibility in designing a more efficient and cost effective network tailored for the transaction site, monitor site, content site and ad server system present.

Regarding claims 31 and 32, Messer discloses the computer network of claim 28 and the use of cookies but does not explicitly disclose wherein the cookie includes information related to a cookie setting date and time. In an analogous art, Angles et al. discloses the use of information extracted from a cookie setting date and time (col 11, lines 5-49). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the computer network of Messer to include information relating to a cookie setting date and time within the cookie. One would have been motivated to modify the computer network to check the validity and origin of the cookie, thus gaining valuable information in tracking the user behavior during an online session.

Regarding claims 53 and 54, Messer discloses the computer network of claim 49 but does not explicitly teach wherein the recorded transaction in the transaction database includes information related to a cookie setting date and setting time. In an analogous art, Angles et al. discloses the use of information extracted from a cookie setting date and setting time (col 11, lines 5-49 and col 14, lines 27-33). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to

include information relating to a cookie setting date and time in the transaction database in the system of Messer. One would have been motivated to modify the computer network to check the validity and origin of the cookie, thus gaining valuable information in tracking the user behavior and transactions during an online session.

Regarding claim 63, Messer discloses the method of tracking a transaction of claim 61 but does not explicitly teach further providing the advertisement to the user node from an advertisement database. In an analogous art, Angles et al. discloses several architectural designs of the computer network to provide ads from a database server to a consumer browser module (col 15, lines 20-31 and Figs 1, 2, 4, 9, 10, 11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the computer network of Messer to include the delivery of ads from the ad database to the user node. One would have been motivated to modify the computer network to gain greater architectural flexibility in designing a more efficient and cost effective network tailored for the transaction site, content site and ad server system present.

Regarding claim 79, Messer discloses the method of compiling transaction information of claim 78 but does not explicitly teach that wherein the cookie further includes information related to a time at which the selection of the advertisement has been made. In an analogous art, Angles et al. discloses the use of cookies to gather information regarding the time at which the ad banner is selected (col 11, lines 5-49; col 15, line 65 to col 16, line 15 and col 20, lines 18-37). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Messer. One would have been motivated to modify the method of compiling transaction information since collecting information regarding the time of selection of the advertisement allows for a more accurate tracking and monitoring of the viewing and transaction session of the user.

Regarding claim 84, Messer discloses the method of compiling transaction information of claim 83 but does not explicitly teach wherein the data structure for the transaction information includes a time of the selection of the advertisement and a time of the

transaction, and the method further includes comparing the time of the selection with the time of the transaction to assess time elapsed between the selection and the transaction. In an analogous art, Angles et al. discloses gathering information regarding the time at which the ad banner is selected (col 11, lines 5-49; col 15, line 65 to col 16, line 15 and col 20, lines 18-37). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Messer. One would have been motivated to modify the method of compiling transaction information since collecting information regarding the time of selection of the advertisement and subsequently making a comparison between the elapsed time between the selection and the transaction allows for a more accurate tracking and monitoring of the viewing and transaction session of the user, thus collecting important information concerning the effectiveness of the pertinent architectural design.

Claim 88 is rejected under 35 U.S.C. 103(a) as being unpatentable over Messer in view of Davis et al.

Regarding claim 88, Messer discloses the method of compiling transaction information of claim 83 but does not explicitly teach wherein the data structure for the transaction information includes information related to an amount of time taken to make the transaction, and the method further includes assessing customer serving capabilities of the sale site by analyzing the amount of time taken to make the transaction. In an analogous art, Davis et al. discloses gathering information regarding tracking the user's interaction with a Web page by monitoring time (col 4, lines 37-54; col 8, lines 6-20). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Messer. One would have been motivated to modify the method of compiling transaction information since collecting information regarding the elapsed time of the transaction allows for a more accurate tracking and monitoring of the viewing and transaction session of the user, thus collecting important information concerning the effectiveness of the pertinent architectural design of the merchant site and helping in future modifications to enhance the user's experience at the merchant site.

**(10) Response to Argument**

<u>Appellants argue</u>

Regarding claims 1-12, 14, 16, 18-30, 33-52, 55-62 and 64-77, appellants argue that the

Messer reference does not teach the feature of information being recorded "based on a specific

request from a user node to record the transaction" and that a cookie is a "transaction

confirmation, or that it includes a command to record the transaction" (page 6). Appellants

argue that the Messer reference merely describes a banner advertisement allowing users to

view a merchant's website (page 5). Appellants further argue that the clearinghouse of Messer

does not receive a request to record from a user node, and specifically not in response to a

command provided by the user node but merely completes a purchase transaction started by

the merchant site (pages 6 and 7).

<u>Examiner's response</u>

The examiner respectfully disagrees as the Messer reference teach a method and

system in which the user from his/her PC (user node) access various content provider website

(content node) where the user is presented with banner ads which direct the user to a third party

website where the user is able to make a purchase (transaction node). The transaction details

are tracked and recorded at a Clearinghouse (monitor node) (page 6, line 21 to page 8, line 25

and Figure 1). Furthermore, the Messer reference teaches the feature of cookies being placed

on the user node to track the user's whereabouts and online behavior such as purchases

(transaction confirmations) and websites visited by editing (or formatting) the cookie throughout

the online session (page 13, line 24 to 14, line 28). Within Messer's scheme, the process starts

at the user node and the transaction is interactive between the user node and the merchant

node (e.g. browsing the goods being offered, selection and payment options) thus ultimately the

information being recorded by the Clearinghouse is initiated and thus implicitly requested by the user node (e.g. user's identification, location and payment vehicle).

### Appellants argue

Regarding claims 78, 80-83 and 85-87, appellants argue that the Messer reference does not teach the feature of an "ad server" (page 7). Appellants further argue that the merchant site of Messer does not serve ads thus cannot be considered to be an ad server (page 7) or that a cookie is not "formatted by an ad server, or a user node providing a cookie to an ad server" (page 8).

### Examiner's response

At the onset, the examiner respectfully disagrees by remarking that the content site displays the ad banner thus is construed as an ad server and that the cookie is edited at the various websites to track the user's online behavior. Specifically, the examiner notes the Messer reference teaches the features of tracking the user's online behavior via editing (formatting) a cookie by placing a cookie in the user node, recording the user's selection of an ad banner (thus providing information to an ad server) and recording the ensuing purchase decisions (page 13, line 24 to 14, line 28). The Clearinghouse then calculates the accounting particulars such as commission based on the information provided by cookie (e.g. nodes visited, numbers of ad selection and purchase information). The Messer reference also teaches the scheme regarding a subsequent and continuous tracking thus providing cookie information to an ad server.

### Appellants argue

Regarding claims 13, 15, 16, 31, 32, 53, 54, 63, 79, 84 and 88, appellants argue the claims are allowable since they are dependent on the independent claims.

Examiner's response

The examiner also would like to point to the above response for a detailed discussion of the independent claims.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

NVT

ERIC W. STAMBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Conferees:

Eric Stamber                    Vincent Millin